

# Exhibit 08

1  
2 UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
3 Case No. 1:22-cv-00983-VEC

-----x

4 NIKE, INC.,  
5 Plaintiff,  
6 - against -  
7 STOCKX LLC,  
8 Defendant.

9 -----x

10 September 7, 2023  
10:32 a.m.

11  
12  
13 VIDEOTAPED DEPOSITION of ROBERT  
14 KLEIN, located at DLA Piper LLP, 1251  
15 Avenue of the Americas, New York, New York  
16 10020, before Anthony Giarro, a Registered  
17 Professional Reporter, a Certified Realtime  
18 Reporter and a Notary Public of the State  
19 of New York.  
20  
21  
22  
23  
24  
25

<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 DLA PIPER LLP Attorneys for Plaintiff 5 1251 Avenue of the Americas New York, New York 10020 6 212.335.4964 7 BY: TAMAR DUVDEVANI, ESQ. JANE WISE, ESQ. 8 tamar.duvdevani@dlapiper.com jane.wise@dlapiper.com 9 10 DEBEVOISE &amp; PLIMPTON LLP Attorneys for Defendant 11 919 Third Avenue New York, New York 10022 12 13 BY: KATE SABA, ESQ. ABIGAIL LILES, ESQ. ksaba@debevoise.com 14 aeliles@debevoise.com 15 16 KILPATRICK TOWNSEND &amp; STOCKTON LLP Attorneys for Defendant 17 1144 Avenue of the Americas New York, New York 10036 18 BY: ROBERT POTTER, ESQ. rpotter@kilpatricktownsend.com 19 20 ALSO PRESENT: 21 BOB RUDIS, Videographer LANCE RIECK, Videographer trainee 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 THE VIDEOGRAPHER: Good 3 morning. We are going on the record 4 at 10:32 a.m. on September 7th, 2023. 5 Please note the microphones are 6 sensitive and may pick up whispering 7 and private conversations. Please 8 mute your mobile phones at this time. 9 Audio and video recording will 10 continue to take place unless all 11 parties agree to go off the record. 12 This is Media Unit 1 of the 13 video-recorded deposition of Robert 14 Klein, taken by counsel for the 15 plaintiff, in the matter of Nike, 16 Inc. versus StockX LLC filed in the 17 United States District Court, 18 Southern District of New York, Case 19 No. 1:22-cv-00983-VEC. The location 20 of this deposition is DLA Piper LLP, 21 1251 Avenue of the Americas, New 22 York, New York. 23 My name is Robert Rudis. I 24 am the videographer. The court 25 reporter is Anthony Giarro. And we</p>
<p style="text-align: right;">Page 3</p> <p>1 2 STIPULATIONS 3 4 IT IS HEREBY STIPULATED AND AGREED, 5 by and among counsel for the respective 6 parties hereto, that the filing, sealing 7 and certification of the within deposition 8 shall be and the same are hereby waived; 9 IT IS FURTHER STIPULATED AND AGREED 10 that all objections, except as to form of 11 the question, shall be reserved to the time 12 of the trial; 13 IT IS FURTHER STIPULATED AND AGREED 14 that the within deposition may be signed 15 before any Notary Public with the same 16 force and effect as if signed and sworn to 17 before the Court. 18 * * * 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 ROBERT KLEIN 2 represent the firm Veritext Legal 3 Solutions. 4 I'm not related to any party 5 in this action, nor am I interested 6 in the outcome. 7 If there are any objections 8 to proceeding, please state them at 9 the time of your appearance. 10 Counsel and all present will 11 now please state their appearances 12 and affiliations for the record, 13 beginning with the noticing attorney. 14 MS. DUVDEVANI: Tamar 15 Duvdevani, DLA Piper, on behalf of 16 Plaintiff Nike, Inc., joined by my 17 colleague, Jane Wise, also of DLA 18 Piper. Good morning. 19 MS. SABA: Kate Saba, 20 Debevoise &amp; Plimpton, on behalf of 21 StockX. With me is my colleague, 22 Abigail Liles, as well as my 23 co-counsel, Rob Potter, of Kilpatrick 24 Townsend. 25 THE VIDEOGRAPHER: Will the</p>

<p style="text-align: right;">Page 6</p> <p>1 ROBERT KLEIN</p> <p>2 court reporter please swear in the</p> <p>3 witness. And counsel may proceed.</p> <p>4 ROBERT KLEIN, after having</p> <p>5 first been duly sworn by a Notary Public of</p> <p>6 the State of New York, was examined and</p> <p>7 testified as follows:</p> <p>8 EXAMINATION BY</p> <p>9 MS. DUVDEVANI:</p> <p>10 Q Good morning, Mr. Klein.</p> <p>11 A Good morning.</p> <p>12 Q As you heard, my name is</p> <p>13 Tamar Duvdevani. And I represent Nike in</p> <p>14 this case. We already premarked your</p> <p>15 report as Exhibit 1.</p> <p>16 (The above-referred-to</p> <p>17 document was marked as Exhibit 1 for</p> <p>18 identification, as of this date.)</p> <p>19 Q Including all of the</p> <p>20 exhibits thereto, A through G. I just</p> <p>21 want to make sure that you have that in</p> <p>22 front of you.</p> <p>23 A Did you get one for me?</p> <p>24 Q The marked one would be your</p> <p>25 copy, sir.</p>	<p style="text-align: right;">Page 8</p> <p>1 ROBERT KLEIN</p> <p>2 specifically, the caption on it. But I</p> <p>3 would assume that that's what I read.</p> <p>4 Q Was it the same complaint</p> <p>5 that you relied upon in connection with</p> <p>6 your materials considered in your report?</p> <p>7 A Yes.</p> <p>8 Q So it's the first amended</p> <p>9 complaint; fair?</p> <p>10 A Fair.</p> <p>11 Q How long did you spend</p> <p>12 preparing?</p> <p>13 A Let's see. Oh. I guess in</p> <p>14 addition, I read the -- or most of the</p> <p>15 deposition of Itamar Simonson. So I</p> <p>16 spent probably six or seven hours reading</p> <p>17 those various documents, reviewing them.</p> <p>18 Q Did you discuss your</p> <p>19 deposition with anyone in advance of</p> <p>20 today?</p> <p>21 A Yes.</p> <p>22 Q And who was that?</p> <p>23 A With counsel.</p> <p>24 Q You've been deposed before;</p> <p>25 right?</p>
<p style="text-align: right;">Page 7</p> <p>1 ROBERT KLEIN</p> <p>2 A Sorry.</p> <p>3 Q No problem.</p> <p>4 Looks right?</p> <p>5 A It does.</p> <p>6 Q Let's get started then.</p> <p>7 I take it you're represented</p> <p>8 today by counsel?</p> <p>9 A Yes.</p> <p>10 Q And it's the same counsel</p> <p>11 that's representing StockX in this case?</p> <p>12 A That's correct.</p> <p>13 Q Did you do anything to</p> <p>14 prepare for today's deposition?</p> <p>15 A Yes.</p> <p>16 Q And what was that?</p> <p>17 A I re-read my report, the</p> <p>18 reports of Itamar Simonson and the</p> <p>19 complaint and answer in this matter, and</p> <p>20 I met with counsel.</p> <p>21 Q And when you say you read</p> <p>22 the complaint and answer, are you</p> <p>23 referring to the first amended complaint</p> <p>24 and the first amended answer?</p> <p>25 A I guess so. I don't recall</p>	<p style="text-align: right;">Page 9</p> <p>1 ROBERT KLEIN</p> <p>2 A Yes.</p> <p>3 Q Several times, I assume?</p> <p>4 A Yes.</p> <p>5 Q And you've even run into</p> <p>6 Nike's expert, Mr. Simonson, in previous</p> <p>7 litigation; right?</p> <p>8 A That's correct.</p> <p>9 Q And have you also testified</p> <p>10 at trial?</p> <p>11 A Yes.</p> <p>12 Q Is that always been in your</p> <p>13 capacity as a survey expert?</p> <p>14 A Yes.</p> <p>15 Q How many times?</p> <p>16 A How many times what?</p> <p>17 Q Have you testified at trial?</p> <p>18 A I think about 25.</p> <p>19 Q Have the opinions on which</p> <p>20 you offered expert testimony ever been</p> <p>21 challenged in any of those 25 instances?</p> <p>22 A Yes.</p> <p>23 Q Have any portions of your</p> <p>24 testimony or a report before ever been</p> <p>25 excluded by a court?</p>

<p style="text-align: right;">Page 26</p> <p>1 ROBERT KLEIN</p> <p>2 A I lost track of what your</p> <p>3 question was.</p> <p>4 Q I'm asking if you've ever</p> <p>5 conducted any research or done any</p> <p>6 surveys to help form the statement in</p> <p>7 paragraph 14 that we've been discussing</p> <p>8 in some detail.</p> <p>9 A No, I haven't.</p> <p>10 Q By the way, would you be</p> <p>11 able to create a survey to test that?</p> <p>12 Let me be specific.</p> <p>13 Would you be able to create</p> <p>14 a survey to test whether or not consumers</p> <p>15 who use the resale marketplace believe</p> <p>16 that affiliation or approval are</p> <p>17 required, solely based on their lack of</p> <p>18 knowledge of the law, rather than any</p> <p>19 actionable trademark confusion? Is that</p> <p>20 testable?</p> <p>21 A I don't see why it wouldn't</p> <p>22 be. But I haven't done such a survey.</p> <p>23 Q I think it would be an</p> <p>24 interesting one.</p> <p>25 Do you know who first sold</p>	<p style="text-align: right;">Page 28</p> <p>1 ROBERT KLEIN</p> <p>2 neither legally relevant, nor a basis for</p> <p>3 Nike's infringement claims in this case.</p> <p>4 And in any event, my understanding of the</p> <p>5 law is that the use of the word Nike and</p> <p>6 the description of a secondary market</p> <p>7 sale of a Nike shoe is a fair use."</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q What is trademark fair use?</p> <p>11 A My understanding is that</p> <p>12 trademark fair use is the use of a</p> <p>13 trademark to accurately identify a</p> <p>14 specific product.</p> <p>15 Q And where does that</p> <p>16 understanding come from?</p> <p>17 A Probably from McCarthy on</p> <p>18 trademarks. But I don't know</p> <p>19 specifically.</p> <p>20 Q Did you review McCarthy on</p> <p>21 trademarks in connection with your work</p> <p>22 in this case?</p> <p>23 A Not specifically, no.</p> <p>24 Q Other than McCarthy, do you</p> <p>25 have any other sources that provided you</p>
<p style="text-align: right;">Page 27</p> <p>1 ROBERT KLEIN</p> <p>2 the StockX Vault NFTs at issue in this</p> <p>3 litigation?</p> <p>4 A I'm not sure I understand</p> <p>5 your question.</p> <p>6 Q You understand that StockX</p> <p>7 offered a product called the Vault NFTs;</p> <p>8 right?</p> <p>9 A Yes.</p> <p>10 Q Who first sold those? Was</p> <p>11 it StockX or someone else?</p> <p>12 A Well, StockX created the</p> <p>13 NFT. But I guess I don't know</p> <p>14 specifically. I mean I can understand</p> <p>15 situations in which someone might have</p> <p>16 bought a pair of sneakers, and they'd</p> <p>17 want to resell it, but they'd want to</p> <p>18 resell it as an NFT. So I guess to</p> <p>19 answer your question, I don't know. I'm</p> <p>20 not sure who first sold the NFT.</p> <p>21 Q In paragraph 18 of your</p> <p>22 report, so on the next page, you</p> <p>23 state, "It is my understanding that</p> <p>24 confusion stemming solely from the fact</p> <p>25 that StockX is reselling Nike sneakers is</p>	<p style="text-align: right;">Page 29</p> <p>1 ROBERT KLEIN</p> <p>2 with the definition of fair use that you</p> <p>3 just provided?</p> <p>4 A No. I mean I'm not a legal</p> <p>5 expert. So I think my understanding of</p> <p>6 fair use is use that doesn't -- is</p> <p>7 appropriate to describe goods. In this</p> <p>8 case, a trademark is to properly identify</p> <p>9 the goods for sale.</p> <p>10 Q I know, by the way, in</p> <p>11 paragraph 14 that you also used the term</p> <p>12 first sale.</p> <p>13 What is the first sale</p> <p>14 doctrine?</p> <p>15 A My understanding of that is</p> <p>16 that the first sale doctrine is that</p> <p>17 after the initial sale of the -- of</p> <p>18 goods, I could then turn around and</p> <p>19 resell them and use the appropriate</p> <p>20 trademarks to correctly identify them.</p> <p>21 Q And the goods at issue in</p> <p>22 this case are the Vault NFTs; correct?</p> <p>23 A Well, the goods could be</p> <p>24 anything. But this is specifically about</p> <p>25 Vault NFTs.</p>

<p style="text-align: right;">Page 34</p> <p>1 ROBERT KLEIN</p> <p>2 many words?</p> <p>3 A No. I think that's an</p> <p>4 accurate description of the survey I</p> <p>5 created.</p> <p>6 Q Wouldn't you agree with me</p> <p>7 that the standard Eveready survey design</p> <p>8 is also a single stimulus open-ended</p> <p>9 response test control design?</p> <p>10 A Yes. I believe that it's --</p> <p>11 Eveready is sort of a subset of this</p> <p>12 design, yes, but ask very specific</p> <p>13 questions.</p> <p>14 Q An Eveready design uses a</p> <p>15 single stimulus; correct?</p> <p>16 A In general, yes.</p> <p>17 Q And it uses open-ended</p> <p>18 questions to elicit responses to that</p> <p>19 stimulus; correct?</p> <p>20 A That's correct.</p> <p>21 Q What is the difference, if</p> <p>22 any, between these two questions? One,</p> <p>23 what is the company who put out a</p> <p>24 product; and, Two, what is the company</p> <p>25 who created a product?</p>	<p style="text-align: right;">Page 36</p> <p>1 ROBERT KLEIN</p> <p>2 And that was the issue that I was</p> <p>3 addressing.</p> <p>4 Q So you didn't think it was</p> <p>5 important to the analysis of likelihood</p> <p>6 of confusion in this case to ask the</p> <p>7 affiliation question?</p> <p>8 A No. That's correct.</p> <p>9 Q By the way, are make and</p> <p>10 created the same?</p> <p>11 A It'll depend on the product</p> <p>12 and the specifics of the product.</p> <p>13 Q What about the Vault NFTs</p> <p>14 are made and created the same?</p> <p>15 A I think similar meanings;</p> <p>16 created is more precise.</p> <p>17 Q How so?</p> <p>18 A You know, an NFT is a</p> <p>19 digital record. And so making it is -- I</p> <p>20 think becomes ambiguous, whereas create</p> <p>21 is more specific, less ambiguous.</p> <p>22 Q You just said that an NFT is</p> <p>23 a digital record.</p> <p>24 Is that your definition of</p> <p>25 NFT?</p>
<p style="text-align: right;">Page 35</p> <p>1 ROBERT KLEIN</p> <p>2 A Creating a product is I</p> <p>3 believe -- refers more to the</p> <p>4 manufacturing of the product, whereas</p> <p>5 putting out -- when you say puts out the</p> <p>6 product is a terminology you typically</p> <p>7 use in surveys when we're not working for</p> <p>8 the manufacturer of the product, which</p> <p>9 might be a factory in China or something</p> <p>10 like that, but the company whose brand or</p> <p>11 name is associated with the product.</p> <p>12 Q And you would agree with me</p> <p>13 that sometimes, the company who creates a</p> <p>14 product is also the company who puts out</p> <p>15 a product?</p> <p>16 A I'm sure that happens, yes.</p> <p>17 Q In your survey, did you ask</p> <p>18 any questions about whether participants</p> <p>19 believe that the company who created the</p> <p>20 Vault NFT was affiliated with another</p> <p>21 entity?</p> <p>22 A No.</p> <p>23 Q Why not?</p> <p>24 A The question was very simple</p> <p>25 and straightforward, who created the NFT.</p>	<p style="text-align: right;">Page 37</p> <p>1 ROBERT KLEIN</p> <p>2 A I'm not an expert on NFTs.</p> <p>3 So it's my understanding that an NFT is a</p> <p>4 digital entry in a ledger that may be a</p> <p>5 Blockchain, maybe not, that it exists as</p> <p>6 a digital entry.</p> <p>7 Q Anything else?</p> <p>8 A NFTs in general, you mean?</p> <p>9 Q Sure.</p> <p>10 A No. I think that's pretty</p> <p>11 much my understanding.</p> <p>12 Q In your survey, did you ask</p> <p>13 any questions about whether participants</p> <p>14 believed that the company who created the</p> <p>15 Vault NFT received approval or permission</p> <p>16 to offer the NFT?</p> <p>17 A No.</p> <p>18 Q Why not?</p> <p>19 A That wasn't part of the --</p> <p>20 it wasn't an appropriate question.</p> <p>21 Q Why not?</p> <p>22 A I'm trying to think how to</p> <p>23 respond to that because it's not a</p> <p>24 question that makes sense in this</p> <p>25 context.</p>

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2 INDEX

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4 EXAMINATION

5

6 EXAMINATION FURTHER EXAMINATION

7 Ms. Duvdevani 6 136

8 Ms. Saba 134

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10 EXHIBITS

11 Exhibit Description Page

12 Exhibit 1 Expert report 6

13 Exhibit 2 Printout of a web 77

14 page

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17 Exhibit 5 E-mail 126

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2 CERTIFICATION

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5 I, ANTHONY GIARRO, a Shorthand

6 Reporter and a Notary Public, do hereby

7 certify that the foregoing witness, ROBERT

8 KLEIN, was duly sworn on the date

9 indicated, and that the foregoing, to the

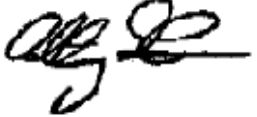
10 best of my ability, is a true and accurate

11 transcription of my stenographic notes.

12 I further certify that I am not

13 employed by nor related to any party to

14 this action.

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18 ANTHONY GIARRO

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Page 140

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2 ERRATA SHEET

3 VERITEXT/NEW YORK REPORTING, LLC

4 1-800-727-6396

5 330 Old Country Road 7 Times Square

6 Mineola, New York 11501 New York, New

7 York 10036

8 NAME OF CASE: Nike versus StockX

9 DATE OF DEPOSITION: September 7, 2023

10 NAME OF DEPONENT: Robert Klein

11

12 PAGE LINE (S) CHANGE REASON

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21

22 ROBERT KLEIN

23

24 SUBSCRIBED AND SWORN TO BEFORE ME

25 THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

(NOTARY PUBLIC) MY COMMISSION EXPIRES:



**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
12:15-16	chairman <b>and</b> emeritus	chairman emeritus	Transcription Error
17:16	Converse-All Star	Converse All Star	Typographical Error
19:15	<b>incidents</b> in the country	<b>incidence</b> in the country	Transcription Error
21:5	<b>who</b> are sold by	<b>that</b> are sold by	Clarification
24:20-22	you <b>asked a consumer</b> question. <b>And</b> they will provide you with an answer.	<b>if</b> you <b>ask consumers</b> a question, <b>then</b> they will provide you with an answer.	Transcription Error/ Clarification
24:24-25	based on, you know, <b>their</b> thinking, that is something that might be required	based on, you know, thinking that is something that might be required	Transcription Error/ Clarification
28:17-18	McCarthy on <b>trademarks</b>	McCarthy on <b>Trademarks</b>	Typographical Error
28:20-21	McCarthy on <b>trademarks</b>	McCarthy on <b>Trademarks</b>	Typographical Error
32:6	2022, not <b>23</b> .	2022, not <b>2023</b> .	Typographical Error
33:22	test control	test-control	Typographical Error
35:7-8	when <b>we're</b> not <b>working</b> for the manufacturer	when <b>you're</b> not <b>looking</b> for the manufacturer	Transcription Error



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Page(s): Line(s)	Now Reads	Should Read	Reason
36:13-14	What about the Vault NFTs are made and created the same?	What about the Vault NFTs, are “made” and “created” the same?	Typographical Error
40:8-9	D14 says on the next page, "You will see a picture you might see while shopping	D14 says “ <b>On</b> the next page, you will see a picture you might see while shopping	Typographical Error
43:10-11	the StockX Vault NFT, <b>Donk</b> Low, Retro White, Black	the StockX Vault NFT <b>Dunk</b> Low Retro White Black	Transcription Error
44:2-4	Why did you draw participants' attention to picture in the stimulus?	Why did you draw participants' attention to “picture” in the stimulus?	Typographical Error
44:7	picture image, whatever.	picture, image, whatever.	Typographical Error
45:25-46:3	So I <b>don't want to</b> speculate as to what the answer would be.	So I <b>could only</b> speculate as to what the answer would be.	Transcription Error
52:22-23	definition of sneakers, <b>sort of</b> dictionaries.	definition of sneakers, <b>from</b> dictionaries.	Transcription Error/ Clarification
53:6-7	<b>I</b> half remembering reading	<b>I'm</b> half remembering reading	Transcription Error
54:9-10	They may, collectible handbags	They may, <b>or</b> collectible handbags	Transcription Error

**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
54:21	potential for <b>resell</b>	potential for <b>resale</b>	Transcription Error
54:24-25	I don't know <b>what</b> the potential for <b>a resell</b> is <b>at</b> , but I think	I don't know <b>that</b> the potential for <b>resale</b> is, but I think	Transcription Error
57:14-15	There's a number on the hanger <b>that they</b> linked.	There's a number on the hanger; <b>they're</b> linked.	Transcription Error/ Clarification
58:5-8	I'm not sure I used the term linked in the survey, at least I don't recall which introduces the notion of Vault NFT.	I'm not sure I used the term linked in the survey, at least I don't recall. <b>It's not in INTRO3</b> , which introduces the notion of Vault NFTs.	Transcription Error
59:3-4	the dictionary but <b>standard dictionary</b> , standard English word.	the dictionary but <b>it's a</b> standard English word.	Transcription Error/ Clarification
59:22-24	What do you mean just taking an NFT corresponding to a physical trading card?	What do you mean, just taking <b>one of them</b> , "an NFT corresponding to a physical trading card"?	Transcription Error
62:13-14	I <b>rely</b> on <b>our</b> counsel to make sure that I accurately	I <b>relied</b> on counsel to make sure that I accurately	Transcription Error
62:21-22	I'm going to object. <b>Just</b> be careful because	I'm going to object <b>just to be</b> careful because	Transcription Error



**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
65:4	information about that.	information about <b>how that would happen.</b>	Transcription Error
65:8-10	That the same type of introduction to the set of issues that I had <b>was discussion that</b> was had with	That the same type of introduction to the set of issues that I had, a discussion, was had with	Transcription Error/ Clarification
66:2	sneakers or shoes StockX?	sneakers or shoes <b>is</b> StockX?	Transcription Error
76:22	Yeah. I'd just be guessing.	Yeah, I'd just be guessing.	Typographical Error
84:7-9	shoes that I could -- if I <b>don't have</b> the receipt, I could ask StockX to send to me	shoes that I could -- if I <b>only had</b> the receipt, I could ask StockX to send to me	Transcription Error/ Clarification
84:18-19	Nike <b>Donk</b> Low Retro White, Black	Nike <b>Dunk</b> Low Retro White Black	Transcription Error
84:20-21	Vault NFT <b>Donk</b> Low Retro White, Black	Vault NFT <b>Dunk</b> Low Retro White Black	Transcription Error
84:20-23	Vault NFT Nike <b>Donk</b> Low Retro White, Black	Vault NFT Nike <b>Dunk</b> Low Retro White Black	Transcription Error
84:24-25	against <b>or</b> a control	against a control	Transcription Error

**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
89:17-19	And respondents could provide a verbatim response <b>checked</b> the box	And respondents could provide a verbatim response <b>or check</b> the box	Transcription Error
95:21-24	Now, in response to Q4, what company do you believe created the sneaker referenced above or do you not know Respondents 825? Let's look.	Now, in response to Q4, "what company do you believe created the sneaker referenced above or do you not know?" Respondent 825; <b>let's</b> look.	Transcription Error
97:11	<b>Respondents</b> 6282	<b>Respondent</b> 6282	Transcription Error
98:22	Something like this	<b>When there is</b> something like this	Transcription Error
102:3-4	I don't know why they would see the trademark swoosh.	I don't know why they would <b>answer that they'd seen</b> the trademark swoosh.	Transcription Error
106:22-23	I'm quoting from text	I'm quoting from <b>a</b> text	Transcription Error
107:4	<b>Airware</b>	<b>AirWair</b>	Typographical Error
107:9	<b>Strong</b> Foods	<b>Sturm</b> Foods	Transcription Error



**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
107:21-24	no longer confusing, no longer references the product at issue in this case. It was just removing the picture and replacing it by the printed description.	no longer confusing, no longer references the product at issue. <b>In</b> this <b>case</b> , it was just removing the picture and replacing it by the printed description.	Transcription Error
109:12-13	<b>certain</b> marks	<b>asserted</b> marks	Transcription Error
109:16	yes. Nike word mark is one	yes, <b>the</b> Nike word mark is one	Transcription Error/ Clarification
109:18	the <b>Donk</b> Low mark	the <b>Dunk</b> Low mark	Transcription Error
110:17	that <b>Donk</b>	that <b>Dunk</b>	Transcription Error
111:23	Low <b>Donk</b>	Low <b>Dunk</b>	Transcription Error
113:23-24	Nike <b>Donk</b> Low Retro White, Black Shoes-USM 10	Nike <b>Dunk</b> Low Retro White Black Shoes – US M 10	Transcription Error
114:11-12	Nike <b>Donk</b> Low Retro White, Black Shoes-USM 10	Nike <b>Dunk</b> Low Retro White Black Shoes – US M 10	Transcription Error
119:4-5	then for the sneaker, <b>for the swoosh</b> sneaker and then for the NFT.	then for the sneaker, <b>or first for the</b> sneaker and then for the NFT.	Transcription Error

**Deposition Date:** 9/7/2023**Deponent:** Robert Klein – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
121:22-23	Nike <b>Donk</b> Low Retro White, Black	Nike <b>Dunk</b> Low Retro White Black	Transcription Error
122:2-3	Nike <b>Donk</b> Low Retro White, Black	Nike <b>Dunk</b> Low Retro White Black	Transcription Error
124:2	<b>let's</b> them know	<b>lets</b> them know	Typographical Error
125:24- 126:2	But it's not my first survey. <b>I'm</b> using <b>stimulated</b> web pages as a stimulus.	But it's not my first survey using <b>simulated</b> web pages as a stimulus	Transcription Error
129:7-8	<b>StockX</b> Vault NFT Nike SB <b>Donk</b> Low Ben & Jerry's Chunky Dunky	<b>StockX's</b> Vault NFT Nike SB <b>Dunk</b> Low Ben & Jerry's Chunky Dunky	Transcription Error
129:9-10	The one I used <b>is</b> a stimulus.	<b>That's not the</b> one I used <b>as</b> a stimulus.	Transcription Error
135:19	<b>creative</b> is more precise.	<b>“created”</b> is more precise.	Transcription Error
135:25	<b>creative</b>	<b>“created”</b>	Transcription Error

I, Robert Klein, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on September 7, 2023; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.



DATED this 6<sup>th</sup> day of October, 2023.

  
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Robert Klein